

**CITY OF ESSEX JUNCTION CONFLICT OF INTEREST
AND ETHICS POLICY**

Article I. Application

This policy applies to all elected and appointed officials in addition to employees (including Essex Junction Fire Department) of the City of Essex Junction (hereinafter referred to collectively or individually as “Public Officer and Employee”).

Article II. Purpose

The purpose of this policy is to maintain the public trust that is critical to the continued operation of the municipality.

There are five principles to which public officers and employees shall adhere to:

- (a) A public officer or employee should represent and work towards the public interest rather than private/personal interests.
- (b) A public officer or employee should accept and maintain the public trust.
- (c) A public officer or employee should exercise leadership, particularly in the form of consistently demonstrating behavior that reflects the public trust.
- (d) A public officer or employee should recognize the proper role of all government bodies and the relationships between the various government bodies.
- (e) A public officer or employee should always demonstrate respect for others and for other positions.

Article III. Definitions

For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

- 1. A real or seeming incompatibility between a public officer’s or employee’s private interests and their public or fiduciary interests to the municipality they serve. A conflict of interest arises when there is a direct or indirect personal or financial interest of a public officer/employee or a person or group closely tied with the public officer/employee, including their , household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of an official act or action, or any other matter pending before the public officer/employee or before the public body in which the public officer holds office. A conflict of interest may take any of the four following forms:
 - a. A direct financial conflict of interest arises when a public officer/employee acts on a matter that has a direct financial impact on that public officer/employee, including but limited to the following:
 - i. Financial interest in the sale to the City of any property when such financial interest was received with prior knowledge that the City intended to purchase the property.
 - ii. Contractual arrangements with the City in which the public officer or employee has a financial interest.
 - b. An indirect financial conflict of interest arises when a public officer/employee acts on a financial matter that impacts a person or group closely tied to the public officer/employee.

- c. A direct personal conflict of interest arises when a public officer/employee acts on a matter that has a direct impact on the public officer/employee in a non-financial way but is of significant importance to the public officer/employee.
 - d. An indirect personal conflict of interest arises when a public officer/employee acts on a matter in which the public officer's/employee's judgment may be affected because of a familial or personal relationship or membership in some organization and a desire to help that person or organization further its own interests.
2. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's individual political views or general opinion on a given issue.
 3. A situation where a public officer has not disclosed ex parte communication(s) related to a quasi-judicial proceeding that is before the public body to which that public officer belongs.

A "conflict of interest" does not arise in the case of an official act or action in which the public officer has a personal or financial interest in the outcome, such as in the establishment of a tax rate that is no greater than that of other persons generally affected by the decision.

- B. **Emergency** means an imminent threat or peril to the public health, safety, or welfare.
- C. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel, or any person interested in the outcome of a quasi-judicial proceeding that occurs outside the proceeding and concerns the substance or merits of the proceeding.
- D. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any public officer while acting on behalf of the municipality. This term does not apply to ministerial acts or actions wherein no discretionary judgment is exercised.
- E. **Public body** means any board, council, commission, or committee of the municipality.
- F. **Public interest** means an interest of the municipality, conferred generally upon all municipality residents.
- G. **Public officer** means a person elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include municipal employees.
- H. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties and which results in a written decision, the result of which is appealable by a party to a higher authority.

Article IV. Prohibited Conduct

- A. A public officer/employee shall not participate in any official act or action or conduct if they have a conflict of interest, whether real or perceived, in the matter under consideration, including the following:

- i. Appointment of an immediate family member or business associate.
 - ii. Supervision of an immediate family member.
 - iii. Dating shall be prohibited between co-workers in power-differentiated relationships where one of the parties has decision-making authority over the other party's terms or conditions of employment terms, including performance appraisals.
 - iv. A public official/employee shall not, without authorization, disclose or use confidential information acquired in the course of official duties or use such information to further a personal interest.
 - v. The following positions may not be held simultaneously by any City public officer or employee:
 - a. City Manager may not hold the office of City Clerk or City Treasurer.
 - b. City Councilor shall not serve as a member of the Development Review Board or Planning Commission.
 - c. A member of the Planning Commission shall not serve as a member of the Development Review Board.
 - d. A City Councilor, Planning Commission, or Development Review Board member shall not be an employee of the City of Essex Junction.
- B. A public officer shall not personally – or through any member of their household, business associate, employer, or employee – represent, appear for, or negotiate in a private capacity on behalf of any person or organization that has an interest in an official act or action pending before the public body in which the public officer holds office.
- C. A public officer/employee shall not accept gifts or other offerings for personal gain by virtue of their public office/employee that are not available to the public in general. The following are permissible under this policy:
- i. Attendance at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business, or where official attendance by the public officer or employees as a City representative is appropriate;
 - ii. An award publicly presented in recognition of public service; or
 - iii. Occasional, non-pecuniary gifts of insignificant value.
- D. A public officer will not request or accept any reward, gift, or favor for taking an official act or action or advocating for or against an official act or action.
- E. A public officer/employee shall not use resources unavailable to the general public – including but not limited to municipal staff time, equipment, supplies, or facilities – for private gain or personal purposes.
- F. A public officer who is a member of a public body shall not give the impression that they have the authority to make decisions or take actions on behalf of that body.

Article V. Disclosure

A public officer who, while serving on a public body, may have a conflict of interest, whether real or perceived, in a matter under consideration by that public body shall, prior to taking an official act or action or participating in any official act or action on the matter, publicly disclose at a public meeting or public hearing that they have an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that another public officer recuse themselves from a matter due to a conflict of interest, whether real or perceived.

Article VI. Consideration of Recusal

Once there has been a disclosure of an actual or perceived conflict of interest, other public officers shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

Article VII. Recusal

- A. After taking the actions listed in Articles V and VI, a public officer, whether appointed or elected, shall declare whether they will recuse him or herself and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that they are able to act fairly, objectively, and in the public interest, in spite of the conflict, they shall state why they believe that they are able to act in the matter fairly, objectively, and in the public interest. Otherwise, the public officer shall recuse him or herself from the matter under consideration. A public officer that recuses him or herself may, but not must, explain the basis for that decision.
- B. The failure of an appointed public officer to recuse themselves in spite of a conflict of interest, whether real or perceived, may be grounds for discipline or removal from office.

Article VIII. Post Recusal Procedure

- A. A public officer who has recused themselves from participating in an official act or action by a public body shall not sit with the public body, deliberate with the public body, or participate in the discussions about that official act or action in any manner in their capacity as a public officer. However, such member may still participate as a member of the public or private party, if applicable.
- B. The public body may adjourn the proceedings to a time, date, and place certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

Article X. Effective Date

This policy is effective July 1, 2022.

Article XI. Distribution

This policy shall be distributed to all employees and public officers upon hiring, appointment, or election. Each individual receiving the policy shall execute the acknowledgment form attached here as Appendix A. The form shall be maintained by the City's Human Resources Director for the term of employment, appointment/election,. It may be destroyed after the individual is no longer employed or acting in an official capacity for the City, in accordance with the City's document retention policy.

Article XII. Complaints

Any complaints regarding alleged violations of this policy by an appointed public officer or employee shall be directed in writing to the City Manager. Any complaint shall include the name of the person alleged to have committed the violation and the specific act(s) which constitute the violation. The City Manager shall forward the complaint to the appropriate public official and the Human Resources Director for matters involving an employee.

Any complaint against an elected official shall be directed to the public officer. A person may ask an elected body to reconsider a matter that they believe involved an unethical act by an elected official.

APPENDIX A

ACKNOWLEDGMENT

I acknowledge that I have received, read, and understand the City of Ethics Junction Conflict of Interest and Ethics Policy (dated July 1, 2022).

I further understand the Conflict of Interest and Ethics Policy are subject to change at any time by a majority vote of the City Council.

Signature: _____

Print Name: _____

Date: _____